

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

GREGORY D. BOLIN,  
 Petitioner,

vs.

E.K. McDANIEL, *et al.*,  
 Respondents.

3:07-CV-00481-RLH-VPC

**ORDER**

Respondents have filed a motion for clarification with respect to the status of ongoing proceedings in this case. Docket #53. Noting that the petitioner has refused to verify the currently pending habeas petition in this case, respondents question whether they should file a response to the petition as scheduled or await resolution of the verification issue.

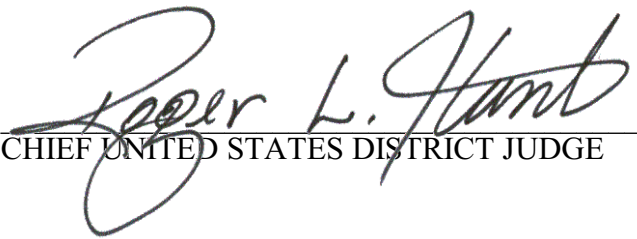
Petitioner has indicated that he refuses to verify the petition primarily because it contains unexhausted claims he does not wish to pursue in this court or exhaust in state court. Docket #50. With their motion for clarification, respondents state that, if directed to respond to the petition, they “anticipate filing a motion to dismiss asserting exhaustion as a defense.” Docket #53, p. 3-4. If respondents did so, petitioner would then be confronted with the decision of whether to delete unexhausted claims or seek a stay for the purposes of exhaustion. *See Rhines v. Weber*, 544 U.S. 269, 278 (2005) (citing *Rose v. Lundy*, 455 U.S. 509 (1982)).

The absence of petitioner's signature on the habeas corpus petition alone is not fatal to this

1 court's jurisdiction. *See Hendricks v. Vasquez*, 908 F.2d 490, 491 (9<sup>th</sup> Cir. 1990). Moreover, the  
2 court retains the discretion to disregard the defect. *Id.* Here, the impediment to petitioner verifying  
3 the petition will potentially be resolved in the normal course of proceedings.

4 **IT IS THEREFORE ORDERED** that respondent's motion for clarification (docket #53) is  
5 GRANTED as follows. Respondents shall have **sixty (60) days** from the date this order is entered to  
6 file and serve an answer or other response to the second amended petition (docket #49). In all other  
7 respects, the schedule set forth in the scheduling order entered on May 1, 2009 (docket #46), shall  
8 remain in effect.

9 DATED: September 7, 2010.

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12 CHIEF UNITED STATES DISTRICT JUDGE  
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